Billing Code: 4510.43-P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and Title 30 of the Code of Federal Regulations, 30 CFR part 44, govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit your comments, identified by "docket number" on the subject line, by any of the following methods:

1. Electronic Mail: zzMSHA-comments@dol.gov. Include the docket number of the petition in the subject line of the message.

2. Facsimile: 202-693-9441.

3. Regular Mail or Hand Delivery: MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209-3939, Attention: Sheila McConnell, Acting Director, Office of Standards, Regulations and

Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202-693-9447 (Voice), barron.barbara@dol.gov (E-mail), or 202-693-9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Numbers: M-2014-037-C.

Petitioner: Jesse Creek Mining, LLC, 1615 Kent Dairy Road, Alabaster, Alabama 35007.

Mine: Clark No. 1 Mine, MSHA I.D. No. 01-03422, located in Shelby County, Alabama.

Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examinations).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of having a certified person take air quantity and quality measurements at evaluation points EP-1, EP-2 and EP-3. The petitioner states that:

(1) Multiple roof falls have blocked travel in the Main West Area left side return at survey spads 40 and 41 for approximately three crosscuts, making it unsafe for mine examiners to travel and the roof falls are impractical to rehabilitate.

(2) Three evaluation points (EP-1, EP-2 and EP-3) will allow effective evaluation of airflow through the air split used to ventilate the Main West Area left side return air courses at the inaccessible roof falls. Evaluation points EP-2 and EP-3 will be established to monitor the air inby the roof fall. Evaluation point EP-1 will monitor the air outby the roof fall.

(3) Signs will be posted in an adjacent travel entry showing the safe travel route to each evaluation point. The evaluation points and routes of travel to the evaluation points will be kept free of water accumulations. Prior to October 14, 2014, a water pump was being used to maintain the water level in the West Mains Area. The power has been removed from the pump and all water from this area will gravity drain to a location that will be safe for a fire boss to examine. The water being gravity drained will be done in a

manner so that no water accumulations prevent safe travel in any area traveled by persons or equipment.

(4) A certified person will conduct weekly evaluations at each of the evaluation points. The evaluations will include the quantity and quality of the air entering or exiting the evaluation points. The evaluation will also include a determination of any airflow from adjacent entries. The measurements will be made using MSHA-approved and calibrated hand-held multi-gas detectors to check the methane and oxygen gas concentrations, and appropriate calibrated anemometers to check airflow volume.

(5) A diagram showing the normal direction of the airflow will be posted at the evaluation points. The diagram will be maintained in legible condition and any change in airflow will be reported to the mine foreman for immediate investigation.

(6) At each evaluation point, a date board will be provided with the date, time, and examiner's initials recorded along with the measured quantity and quality of air. The results of the examinations including the condition of the accessible permanent ventilation controls creating the air course will be recorded in a book kept on the surface and made accessible to all interested parties.

(7) Evaluation points and approaches to the evaluation points will be maintained in safe condition at all times. The roof will be adequately supported by roof bolts or other suitable means to prevent deterioration of the roof in the vicinity of the evaluation points.

(8) Methane gas or other harmful, noxious, or poisonous gases will not be permitted to accumulate in excess of legal limits for return air. An increase of 0.5 percent methane above the last previous methane reading or a 10 percent change in airflow

quantity will cause an immediate investigation of the affected area. The results of the investigation will be reported immediately to the mine foreman.

(9) The initial airflow from adjacent air courses will be determined during the first evaluation following implementation of this modification. Airflow from adjacent air courses will be defined as the difference between the air quantity entering and exiting the petitioned area, as measured at the evaluation points. When there is a 10 percent change from the initial airflows in the air course, an immediate examination and evaluation will be conducted to determine the cause. Appropriate corrective action will then be taken. Following corrective action, a new "initial airflow" will be determined and serve as the basis for subsequent examinations.

(10) The evaluation point locations will be shown on the annually submitted mine ventilation map. The locations will not be moved to other locations without prior approval by the District Manager as part of the Ventilation Plan for the mine.

(11) Prior to implementing this modification, all mine personnel will be instructed that except along designated routes, no travel will be permitted into the affected area and all approaches will be fenced off or barricaded with "DO NOT ENTER" warning signs. Entrance into the affected area will be permitted only to conduct investigations and to correct problems with airflow detected through the monitoring process. All such work will be done under supervision of an authorized person. All persons who work in the area will be instructed in the emergency evacuation procedures and all provisions of 30 CFR 75.1502.

(12) Within 60 days after the Proposed Decision and Order (PDO) becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the

District Manager. These proposed revisions will include initial and refresher training regarding compliance with the PDO. All personnel will receive training of plan content prior to implementing the plan.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M-2014-038-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 49.2(b) (Availability of mine rescue teams).

Modification Request: The petitioner requests a modification of the existing standard to permit the reduction of two mine rescue teams with five members and one alternate each to two mine rescue teams of three members with one alternate of either team. The petitioner states that:

(1) The underground mine is a small mine with hardly enough physical room to accommodate more than three or four miners in the working places. An attempt to utilize five or more rescue team members in the mines confined working places will result in a diminution of safety to the miners at the mine and the members of the rescue team.

(2) Records of Mine Emergency responses over the last 20 years indicate that rescue and recovery operations conducted by Anthracite Underground Rescue, Inc., (AUGR) have never utilized more than one team. In addition, when one rescue team was

utilized there were no more than three members traveling to a working place simultaneously.

(3) The electric power does not reach beyond the bottom of the slope. Therefore, all coal haulage is done by hand trammed cars or battery electric motor and car at very slow rates of speed. These facts considerably reduce the risk of a disaster and the need for as many mine rescue team members as required by the regulations.

(4) The employment in the underground anthracite mines has decreased substantially and the ratio of mine rescue teams to underground miners has correspondingly been reduced. The loss of the underground work force dramatically reduces the pool of qualified people available to fill mine rescue positions.

(5) Pennsylvania Deep Mine Safety presently has four deep mine inspectors that have deep mine rescue training and are pledged to assist if required in an emergency. In addition, the surrounding small mines have always provided assistance during mine emergencies.

(6) As a result of poor market conditions and a significant number of underground mines now conducting final pillar recovery, the downward trends are expected to continue.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2014-039-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible electric equipment within 150 feet of the pillar line to include drags and battery locomotives due in part to the method of mining used in pitching anthracite mines and the alternative evaluation of the mine air quality for methane on an hourly basis during operation with one of the gas test results to be recorded in the on-shift examination record. The petitioner proposes to:

(1) Suspend equipment operation anytime methane concentration at the equipment reaches 0.5 percent methane either during operation or when found during a pre-shift examination.

(2) The equipment will be operated in only the working section's intake entry (gangway) which is regularly traveled and examined.

(3) The use of drags on less than moderate pitching veins (less than 20 degrees pitch) is the only practical system of mining in use.

(4) Permissible drags are not commercially available, and due in part to their small size, permissible locomotives are not commercially available either.

(5) As a result of low daily production rates and full timbering support, in-rushes of methane due to massive pillar falls are unlikely to occur.

(6) Recovery of the pillars above the first miner heading is usually accomplished on the advance within 150 feet of the section intake (gangway) and the remaining minable pillars recovered from the deepest point of penetration outby.

(7) The 5,000 cfm of required intake airflow is measured just outby the nonpermissible equipment with the ventilating air passing over the equipment to ventilate the pillar being mined.

(8) The electrical equipment is attended during operation, and either power to the unit is deenergized at the intersection of the working gangway and intake slope, or the equipment is moved to that area potential from the pillar recovery area.

(9) Where more than one active line of pillar breast recovery exists, the locomotive may travel to a point just outby the deepest active chute/breast (room) workings or the last open crosscut in a developing set of entries.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2014-040-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.340 (Underground electrical installations).

Modification Request: The petitioner requests a modification of the existing standard to permit batteries to be charged on the mine's locomotive during idle periods when all miners have been removed from the mine and to allow the intake air used to ventilate the

charging station, located at the No. 1 chute of the active gangway level, to continue through its normal route to the last open crosscut and into the monkey airway (return). The petitioner states that:

(1) The mine utilizes a full timber roof support system double hardwood stopping construction, and wooden chutes throughout the gangway, making fireproof construction impossible.

(2) Anthracite mining utilizes a single intake (gangway) and single return (monkey) with connecting crosscuts (chutes).

(3) The battery locomotive must remain on the track in the gangway, which would require ventilating air to be totally short-circuited, removing ventilation from the gangway inby the charger.

(4) The only viable alternative would require removal of the batteries and transporting them in the slope's gunboat to the surface for charging.

(5) Due to the pitch of the vein, mining either or both the top and bottom rock would be required to install a side track weakening timber anchorage.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2014-041-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200(d) and (i) (Mine map).

Modification Request: The petitioner requests a modification of the existing standard to permit the substitution of cross-sections in lieu of contour lines through the intake slope at locations of rock tunnel connections between veins and at 1,000 feet intervals of advance from the intake slope and to limit the required mapping of mine workings above and below to those present within 100 feet of the vein(s) being mined unless these veins are interconnected to other veins beyond the 100 feet limit through rock tunnels. The petitioner states that:

(1) Due to the steep pitch encountered in mining anthracite coal veins, contours provide no useful information and their presence would make portions of the map illegible.

(2) Use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information about spacing between veins and proximity to other mine workings which fluctuate considerably.

(3) The vast majority of current underground anthracite mining involves either second mining of remnant pillars from previous mining/mine operators or the mining of veins of lower quality in proximity to inaccessible and frequently flooded abandoned mine workings that may or may not be mapped.

(4) All mapping for mines above and below is researched by the petitioner's contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine and a hazard analysis is done when mapping indicates the presence of known or potentially flooded workings.

(5) When no rock tunnel connections are found, mine workings that exist beyond 100 feet from the mine, are recognized as presenting no hazard to the mine due to the pitch of the vein and rock separation.

(6) The mine workings above and below are usually inactive and abandoned and not subject to changes during the life of the mine.

(7) Where evidence indicates prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered mined and flooded and appropriate precautions will be taken through as required in 30 CFR 75.388, which addresses drilling boreholes in advance of mining, where possible.

(8) Where potential hazards exist and in-mine drilling capabilities limit penetration, surface boreholes may be used to intercept the workings and the results analyzed prior to beginning mining in the affected area.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2014-042-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202-1(a) (Temporary notations, revisions and supplements).

Modification Request: The petitioner requests a modification of the existing standard to permit the interval of survey to be established on an annual basis from the initial survey

in lieu of every 6 months as required. The petitioner proposes to continue to update the mine map by hand notations on a daily basis and conduct subsequent surveys prior to commencing retreat mining, and whenever either a drilling program is required by 30 CFR 75.388 or a plan for mining into inaccessible areas is required by 30 CFR 75.389. The petitioner states that:

(1) The low production and slow rate of advance in anthracite mining make surveying on 6-month intervals impractical. In most cases annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development.

(2) The vast majority of small anthracite mines use non-mechanized, hand-loading mining methods.

(3) Development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways.

(4) The available engineering/surveyor resources are limited in the anthracite coal fields. Surveying on an annual basis is difficult to achieve with four individual contractors currently available.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2014-043-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400(c) (Hoisting equipment; general).

Modification Request: The petitioner seeks to permit the use of a slope conveyance (gunboat) to transport persons without safety catches or other no less effective devices because to date, no such safety catch or device is available for steeply pitching and undulating slopes with numerous curves and knuckles present in the main haulage slopes of Anthracite mines, that range in length from 30 to 4200 feet and vary in pitch from 12 degrees and 75 degrees. The petitioner states that:

(1) A functional safety catch has not been developed. Makeshift devices, if installed, would be activated on knuckles and curves when no emergency exist causing a tumbling effect on the conveyance which would increase rather than decrease the hazard to miners.

(2) As an alternative, the petitioner proposes to operate the man cage or steel gunboat with secondary safety connections securely fastened around the gunboat and to the hoisting rope above the main connecting device and use hoisting ropes having a factor of safety in excess of the 4 to 8 to 1 as suggested in the American Standards Specifications for Use of Wire Ropes for Mines.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Docket Number: M-2014-044-C.

Petitioner: Eric Snyder Coal, LLC, 337 East Shamokin Street, Trevorton, Pennsylvania 17881.

Mine: Rattling Run Slope, MSHA I.D. No. 36-10092, located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.311(b)(2) and (b)(3) (Main mine fan operation).

Modification Request: The petitioner requests a modification of the existing standard to permit the electrical circuits entering the underground mine to remain energized to the mine's pumps while the main fan has been intentionally shut down during idle shifts when no miners are working underground. The petitioner states that:

(1) The mine requires pumping of water from the sump area of the intake haulage slope below the active gangway level workings intermittently and at varying levels of time duration on a daily basis. During the wet seasons from late winter to early summer the pumps are often required to operate for extended periods of time to keep the mine from flooding.

(2) Most anthracite mines work only one shift per day, 5-6 days per week during the colder months when coal sales are greatest, and may only work 2-3 days per week during the warmer months because of poor coal sales.

(3) The vast majorities of underground anthracite mines are small, employ 5 or less miners underground, have very low daily coal production of less than 25 tons, and never encountered a measurable quantity of methane during the life of the mine.

(4) Methane liberation in the few underground mines with a history of liberation occurs only when coal is shot from the solid and is dissipated by face ventilation shortly thereafter.

(5) Underground anthracite miners are significantly affected by natural ventilation that continues after the mine fan has been intentionally stopped during idle periods.

(6) Accumulations of methane, in those underground mines with a history of liberation, are historically found in chutes and breasts (entries driven up the pitch) and are not yet connected to the adjacent return entry. These entries are not affected by the natural ventilation air currents.

(7) The primary method of face ventilation utilized in underground anthracite mines is compressed air movers with approved tubing in the working place. They are shut off prior the miners exiting the mine at the end of the shift and prior to the stoppage of the main fan for the idle shifts. Potential accumulations of methane in the working face, is therefore unlikely to be affected by natural ventilation currents.

(8) The mine's pumping system typically consists of a submersible pump located below the water level in the sump and a centrifugal pump located in the intake haulage slope above the active gangway level. The pumps are started and shut off by a set of switches of electrodes located in the sump. The switch/electrode located at the highest elevation in the sump will start the pumps when the water level depth increase to that pre-determined level to protect the active gangway level from flooding. The pumps will continue to operate until the water level depth is decreased to the elevation of the lower switch/electrode.

(9) Compliance with 30 CFR 75.311 through the continuous operation of the main mine fan when pumps are energized would result in a diminution of safety to the miners. During the colder months, the wet conditions present in the intake haulage slope

will result in freezing and accumulations of ice creating a hazard to the miners riding the slope conveyance and to those miners who must manually chip away the ice in the pitching slope thereby increasing a fall hazard. The mount of ice accumulations during a single shift of production is usually minimal and can be melted during the idle shifts, with the main fan off, as the natural ventilating air current is warmed by the higher underground temperatures and carried through slope.

(10) The mine operator proposes to initiate the following alternatives to ensure the safety of the miners:

(a) The examiner will determine whether the pumps are operating and if the natural ventilation air current is moving in the proper direction prior to energizing the main mine fan and before starting the required pre-shift examination.

(b) In the cases where the pumps are not operating when the examiner arrives, the examiner will deenergize the pump circuits before starting the main mine fan and will allow the fan to operate for 30 minutes prior to entering the mine to conduct the pre-shift examination.

(c) During the pre-shift examination, when no accumulation of methane is found in the vicinity of the pumps, the pump circuits may be energized before the miners travel underground.

(d) In those cases where the pumps are found to be already in operation because of high water levels and when the natural ventilating currents are moving in the proper direction, the main mine fan will be started and running for 30 minutes before entering the mine to conduct a pre-shift examination. Examination of the mine pump installation

will be completed prior to entering the active gangway level working and continuing the pre-shift examination.

The petitioner asserts that the proposed alternative method will provide no less than the same measure of protection afforded the miners under the existing standard.

Dated: November 21, 2014.

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Sheila McConnell,
Acting Director,
Office of Standards, Regulations and Variances.

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